

Remarks/Arguments

A. Claims in the Case

Claims 1 –10 and 12 – 26 have been rejected. Claim 11 has been objected to. Claims 1, 11, 13, 21, 22 and 24 have been amended. Claims 25 and 26 have been cancelled. Claims 1- 24 are pending.

B. Objections to the Drawings

The Examiner has objected to the drawings for being non-compliant with 37 CFR §1.184(p)(5) for failing to include reference number 19, which was disclosed on page 13, line 21. Applicant has amended the drawings for clarification. Applicant submits herewith as an attachment replacement sheets for Figure 2 and Figure 4. These sheets will replace the original sheets for Figure 2 and Figure 4. Also submitted herewith as an attachment are annotated sheets indicating to the Examiner what changes have been made. Applicant believes the drawings to now be in compliance with 37 CFR §1.184(p)(5) and respectfully requests that the Examiner's objection to the drawings be withdrawn.

C. Objections to the Specification

The Examiner has objected to the disclosure because of minor informalities that occur on page 9, line 17; page 15, line 5; page 15, line 17 and page 15, line 27. Applicant has amended the Specification for clarification. Applicant respectfully requests that the Examiner's objections to the specification be withdrawn.

D. Objections to the Claims

The Examiner has objected to Claim 11 as being unclear. Applicant has amended claim 11 for clarification. Applicant respectfully requests that the Examiner's objection to Claim 11 be

withdrawn.

E. The Claims are not Anticipated by Wang Pursuant to 35 USC § 102(b)

The Examiner has rejected Claims 1, 4 and 6 under 35 USC § 102(b) as allegedly being anticipated by US Patent No. 5,725,153 granted to Wang et al. (hereinafter to as Wang). Applicant respectfully traverses.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant's amended claim 1 is now drawn in part to:

A fluid spraying nozzle comprising:
an outer conduit; and
an inner conduit positioned within at least a portion of the outer conduit such that a gap is formed between the outer conduit and the inner conduit;

... wherein a back portion of the inner conduit is coupled with a fluid supply source, the fluid supply source being configured to supply a non-pressurized fluid, the fluid comprising a liquid, a solid, or a mixture of a liquid and a solid, and wherein a front portion of the inner conduit is configured to allow ejection of the fluid during use,

Support for the amendments to amended claim 1 can be found, for example, on page 16, lines 8 – 11, of Applicant's specification.

In his Office action, the Examiner states that "Wang discloses a fluid pump delivering the

fluid to the inner conduit.” Applicant’s claim 1 is directed to a fluid spraying nozzle that includes, but is not limited to, a non-pressurized fluid source. Applicant’s disclosure recites that:

In an embodiment, a negative pressure area may be created around the end of the inner conduit. As such negative pressure area is created, gas may be ejected from the outer conduit, the fluid may be pulled from the fluid supply source into the gas by the suction force created by the negative pressure areas. In this manner the fluid may be expelled from the nozzle without the need to pressurize the fluid supply source. Additionally, it is possible to make create an atomized spray of the fluid due to the force of ejection created by the gas flow.

(Applicant’s specification, page 15, line 19 – 25)

The device does not require the pressurization of the fluid to operate. By avoiding pressurization of the fluid, the device may be more compact and easier to handle then other devices. The use of a removable fluid supply source allows the fluid to be easily replaced or interchanged.

(Applicant’s specification, page 16, line 8 – 11).

Applicant submits that the combination of features of amended claim 1 is neither taught nor suggested by the cited art. Applicant therefore respectfully requests that the Examiner withdraw his 35 U.S.C. §102(b) rejection against claim1.

The Examiner further asserts that Wang anticipates claims 4 and 6. Applicant contends that, for at least the reasons stated above, the combination of features of amended claim 1 do not appear to be taught or suggested by Wang.

F. The Claims are not Anticipated by Nordeen Pursuant to 35 USC § 102(b)

The Examiner has rejected Claims 25 – 26 under 35 USC § 102(b) as allegedly being anticipated by US Patent No. 5,052,623 granted to Nordeen (hereinafter to as Nordeen).

Applicant respectfully traverses.

However, in order to expedite the prosecution of this Application, and allow its passage to issue, Applicants have canceled claims 25 and 26 without prejudice and without acquiescence. The Examiner is respectfully requested to withdraw his rejection of the claims pursuant to 35 USC §102(b) in view of Nordeen.

G. The Claims Are Not Obvious over Wang pursuant to U.S.C 103(a)

The Examiner has rejected Claims 5 – 8 under 35 USC § 103(a) as allegedly being unpatentable over U.S. Patent number 5,725,153 granted to Wang et al. (hereinafter referred to as Wang). Applicant respectfully traverses.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner* et al., 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), MPEP § 2143.03.

For at least the same reasons described above, Applicant submits that Wang fails to teach the combination of features of Applicant's claim 1. Therefore, the features of dependent claims 5 – 8, in combination with the features of claim 1, likewise do not appear to be taught or suggested by the cited art. Applicant respectfully requests removal of the rejection of claims 5 – 8.

H. The Claims are not Obvious over Wang in View of Hasegawa pursuant to U.S.C
103(a)

The Examiner has rejected dependent Claims 2, 3, 9, 10 and 12 under 35 USC § 103(a) as allegedly being unpatentable over U.S. Patent number 5,725,153 granted to Wang et al. (hereinafter referred to as Wang) in view of Hasegawa, Japanese Publication H11 – 123350 (hereinafter referred to as Hasegawa). Applicant respectfully traverses.

For at least the same reasons described above, Applicant submits that Wang fails to teach the combination of elements of Applicant's claim 1. Therefore, the features of dependent claims 2, 3, 9, 10 and 12, in combination with the features of claim 1, likewise do not appear to be taught or suggested by the cited art. Applicant respectfully requests removal of the rejection of claims 2, 3, 9, 10 and 12.

The Examiner has also rejected claims 13 – 20 under 35 USC § 103(a) as allegedly being unpatentable over Wang in view of Hasegawa. The Examiner asserts that the combined teachings of Wang and Hasegawa render Applicant's claim 13, and subsequent dependent claims 14 – 20, obvious. Applicant respectfully traverses.

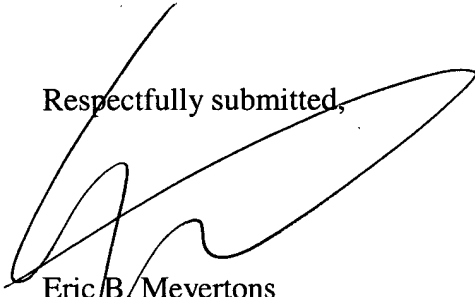
Applicant's amended claim 13 is drawn in part to a fluid spraying apparatus that includes, but is not limited to the feature of:

... a fluid supply source coupled to the inner conduit, the fluid supply source being configured to supply a non-pressurized fluid, the fluid comprising a liquid, a solid, or a mixture of a liquid and a solid;

Hasegawa, K.
10/084,629

Applicant respectfully requests a three-month extension of time. If any further extension of time is required, Applicant hereby requests the appropriate extension of time. A Fee Authorization is enclosed for the extension of time fee. If any additional fees, or if any required fees are inadvertently omitted or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5640-00500/EBM

Respectfully submitted,



Eric B. Meyertons
Reg. No. 34,876

Attorney for Applicant (s)

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398
(512) 853-8800 (voice)
(512) 853-8801 (facsimile)

10/1/03

Applicant contends that, for at least the reasons stated above, the combination of features of amended claim 13 do not appear to be taught or suggested by Wang. Therefore, the features of dependent claims 14 - 20 in the context of amended claim 13 likewise do not appear to be taught or suggested by the cited art. Applicant therefore respectfully requests that the Examiner withdraw his rejection of Claims 13 – 20 with respect to Wang.

The Examiner has also rejected claims 21 – 24 under 35 USC § 103(a) as allegedly being unpatentable over Wang in view of Hasegawa. Applicant respectfully traverses.

Applicant's amended claims 21, 22 and 24 are drawn in part to a fluid spraying apparatus or a method of applying a fluid to a surface including, but not limited to:

... a fluid supply source coupled to the inner conduit, the fluid supply source being configured to supply a non-pressurized fluid, the fluid comprising a liquid, a solid, or a mixture of a liquid and a solid;

Applicant submits that, for at least the same reasons cited above, the combination of features of Applicant's amended claims do not appear to be taught or suggested by the cited art. Applicant respectfully requests removal of the rejection of claims 21 – 24.

Summary

Based on the above, Applicant submits that the claims are now in condition for allowance. Favorable reconsideration is respectfully requested.

2/5

Reference number
19 added

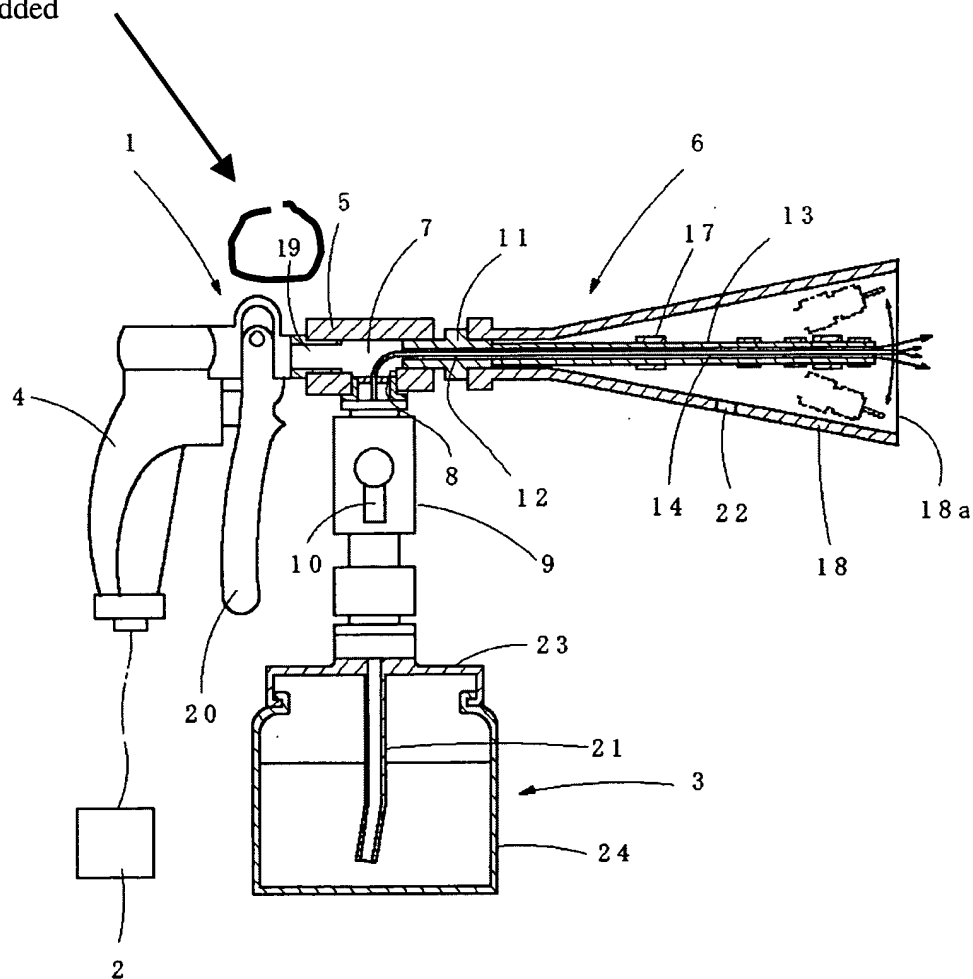


FIG. 2



4/5

Reference number
19 added

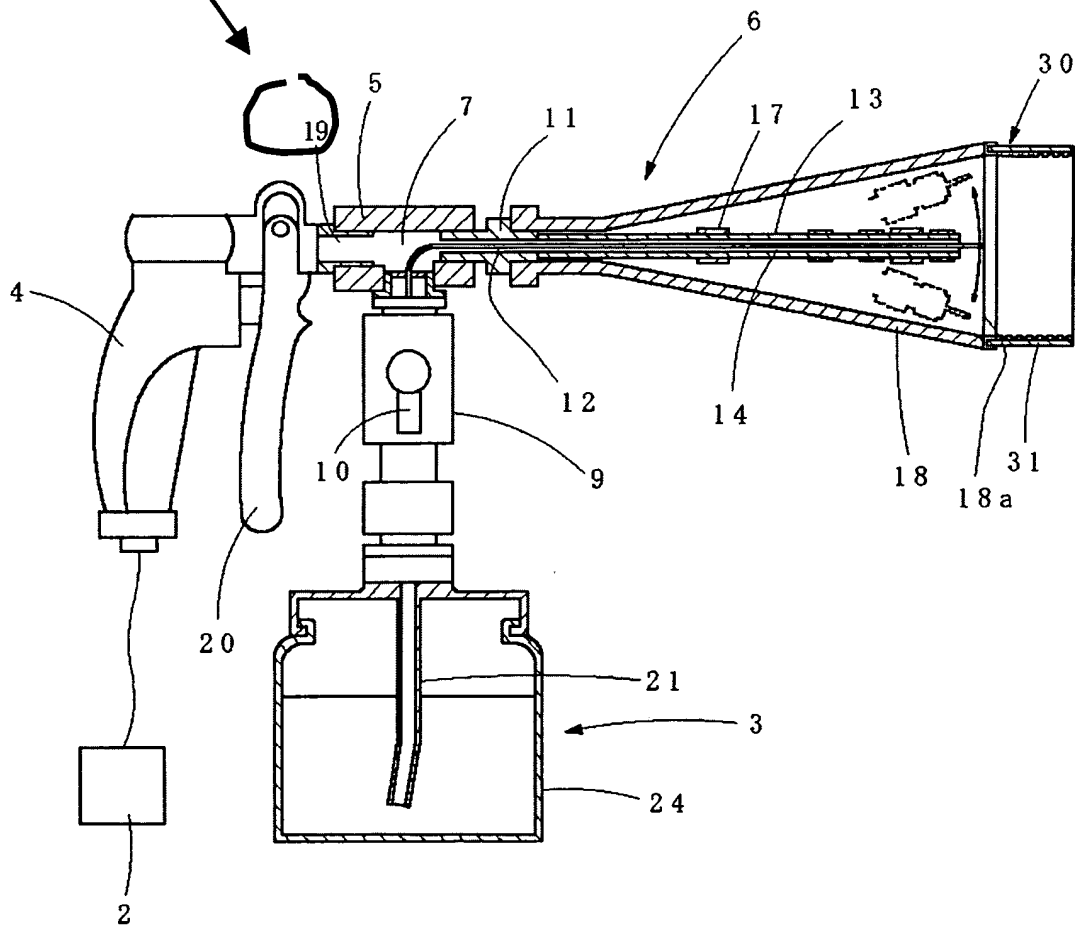


FIG. 4